

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

JAMES LONNIE POTTS,)	
)	
Plaintiff,)	
)	
vs.)	Case No. CIV-05-1357-F
)	
GRADY COUNTY JAIL,)	
)	
Defendant.)	

ORDER

This action is brought by plaintiff, a state prisoner who alleges violations of his constitutional rights under 42 U.S.C. § 1983. Plaintiff appears pro se, and his pleadings are liberally construed.

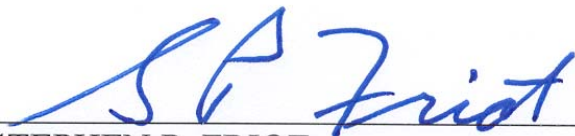
On December 23, 2005, Magistrate Judge Bana Roberts filed her Report and Recommendation, recommending that this action be dismissed without prejudice to refile because plaintiff had been ordered on November 21, 2005 (Order at doc. no. 5) to cure deficiencies with respect to his motion for leave to proceed in forma pauperis but had not done so. The Report also stated that plaintiff had not requested an extension of time within which to cure the deficiencies and had not shown good cause for failing to cure the deficiencies. (Report at doc. no. 6.) The Report advised plaintiff that he could object to the Report, that any such objection must be filed by January 12, 2006, and that failure to timely object would waive the right to appellate review of the recommended ruling. No objection has been filed, and plaintiff has not requested an extension of time within which to file an objection.

The court file indicates that although the Report was mailed to the plaintiff at his last known address, the Report was returned to the clerk of this court as undeliverable with the notation "forwarding expired." (Doc. no. 7.) It is plaintiff's

obligation to keep an accurate address on file with the court. LCvR5.5(a). Moreover, Magistrate Judge Roberts' Order of November 21, 2005 was mailed to the plaintiff at his last known address and that Order did not come back as undelivered. Papers sent by the court are deemed delivered if sent to the last known address given to the court. LCvR5.5(a). The November 21, 2005 Order identified the specific deficiencies in the in forma pauperis motion and ordered plaintiff to cure the deficiencies by December 12, 2005, stating that "Failure to comply with the Order may result in the dismissal of this action." (Order, doc. no. 5.)

For these reasons, and with no objection having been filed, and having reviewed the Report and Recommendation, the record, and the relevant arguments and authorities, the court hereby **AFFIRMS, ACCEPTS, and ADOPTS** the Report and Recommendation of the Magistrate Judge in its entirety. Accordingly, this action is **DISMISSED** without prejudice to refiling.

Dated this 26th day of January, 2006.



STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE